REMARKS

Status Summary

Claims 1-15 are pending in the present application. In this amendment, no claims are added, and no claims are canceled. Therefore, upon entry of this amendment, claims 1-15 remain pending.

Summary of Telephone Examiner Interview

Applicant acknowledges with appreciation the telephone interview granted by the Examiner to Applicant's representative, William E. Wooten, on November 22, 2010. In the Telephone Examiner Interview, the claims as amended and the cited art were discussed.

In particular, Applicant's representative indicated that the prior art did not disclose, teach, or suggest merging two packets of the same protocol into a packet having a protocol different from the two packets being merged. The Examiner indicated that a subsequent search and review would be necessary before a Notice of Allowance is issued.

Claim Rejection – 35 U.S.C. § 103

Claims 1-15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,241,533 to Kimoto et al., (hereinafter, "Kimoto") in view of U.S.

Patent No. 6,721,334 to <u>Ketcham</u>, (hereinafter, "<u>Ketcham</u>"). This rejection is respectfully traversed.

As amended, independent claim 1 recites a method for transmission over packet networks, the method comprising: detecting, at a first node, at least one next node; creating a channel between the first node and the at least one next node; receiving, at the first node, a first packet; detecting a protocol of the first packet; merging the first packet with a second packet of the same protocol as the first packet <u>into a packet having a protocol different from both the protocol of the first packet and the protocol of the second packet</u>; and transmitting the merged first packet and second packet to the at least one next node via the channel. As amended, independent claim 10 recites an internet trunking protocol node comprising: a channel interface for assigning a channel to a next node; a port for transmitting and receiving a plurality of packets to and from the next node; a processor for performing instructions in response to received packets; and a memory, in communication with the processor, for storing a plurality of instructions, wherein the instructions comprise: instructions, responsive to the receipt of a packet, for detecting a protocol of the packet; instructions for merging a plurality of packets of the same protocol into a merged packet <u>having a protocol different from the protocol of the plurality of packets</u>; instructions for splitting a packet comprised of a plurality of packets of the same protocol; instructions for routing packets according to an internet protocol. As amended, independent claim 15 recites a method for establishing voice communication over packet networks, the method comprising: receiving an internet

protocol packet at a node in communication with a plurality of nodes; splitting the internet protocol packet into a plurality of internet trunking protocol (ITP) packets, wherein each ITP packet of the plurality of ITP packets contains circuit-based information; for each of the plurality of packets, determining a next node to which the ITP packet is to be transmitted; determining whether available bandwidth to the next node exceeds a predetermined threshold; assigning a channel to the ITP packet; and if there is a second ITP packet that is to be transmitted to the next node, merging the second ITP packet with the ITP packet into a packet with a protocol different from both the protocol of the ITP packet and the protocol of the second ITP packet.

As reflected above, each of independent claims 1, 10, and 15 has been amended to recite that the packet into which the packets of like protocol are merged is of a protocol different from the packets which are merged into it. Support for the amendment is found in the instant specification, for example, at paragraph [0047], which provides:

> At step **126**, the ITP node then merges the ITP packet with any other ITP packets that are traveling to the same next node, and places the merged ITP packets (or single packet, as the case may be) into the data field of an IP packet. (See paragraph [0047] of the instant specification.)

As the above passage demonstrates, a plurality of ITP packets (i.e., packets of a first protocol) is merged into an IP packet (i.e., a packet of a protocol different from the protocol of the plurality of packets). Additional support for the amendment is found in Figure 5 of the instant specification, which illustrates an Internet Protocol Packet **86** that comprises two merged ITP packets **94** and **96** in accordance with an

embodiment of the present subject matter. (See paragraphs [0038] and [0039] of the instant specification.)

There is absolutely no disclosure, teaching, or suggestion in <u>Ketcham</u> of merging two packets of the same protocol into a packet having a protocol different from the two packets being merged. <u>Ketcham</u> is directed to improving efficiency of a packet-based network by using aggregate packets. (See Abstract of <u>Ketcham</u>.) On page 3, the Official Action states that <u>Ketcham</u> teaches making a determination that a first packet and a second packet combined can be accommodated in a single packet <u>having the same protocol</u>. (See page 3 of the Official Action.) (Emphasis added.) Specifically, the Official Action cites column 14, lines 35 – 45, of <u>Ketcham</u>, which provides:

> [M]aking a second determination that the first packet and the second packet combined can be accommodated in a single packet <u>having the same protocol as the first packet</u>; and combining the first packet and the second packet into a single aggregate packet in response to the first determination and the second determination, the aggregate packet having a destination that is the at least one common destination, and <u>the aggregate packet having the same protocol as the first packet or the second packet</u>. (See column 14, lines 35 – 45, of <u>Ketcham</u>.) (Emphasis added.)

As both the statement in the Official Action and the emphasized portions of the above-quoted passage demonstrate, <u>Ketcham</u> discloses aggregating first and second packets into a packet having a protocol that is the same as either the first packet or the second packet. In contrast, independent claims 1, 10, and 15 recite merging two packets of the same protocol into a packet having a protocol <u>different</u> from the two packets being merged.

Likewise, Kimoto lacks such disclosure, teaching, or suggestion. Kimoto is directed to utilizing an alternative trunking function to prevent transfer delay time of a packet in a packet switching network from increasing when a packet is repeatedly transmitted between two nodes due to a failure of a transmission path. (See column 1, lines 21 – 29, of Kimoto.) Nowhere does Kimoto mention merging packets, much less merging two packets of the same protocol into a packet having a protocol different from the two packets being merged.

Claims 2-9 depend from independent claim 1 and recite additional features. Claims 11-14 depend from independent claim 10 and recite additional features. As stated above with respect to the rejection of claims 1 and 10, Ketcham and Kimoto fail, singly or in combination, to disclose, teach, or suggest merging two packets of the same protocol into a packet having a protocol different from the two packets being merged. Accordingly, it is respectfully submitted that the rejection of claims 1-15 as unpatentable over Kimoto in view of Ketcham should now be withdrawn.

CONCLUSION

In light of the above amendments and remarks, it is respectfully submitted that the present application is now in condition for allowance, and an early notice to such effect is earnestly solicited.

If any small matter should remain outstanding after the Patent Examiner has had an opportunity to review the above Remarks, the Patent Examiner is respectfully

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requested to telephone the undersigned patent attorney in order to resolve these matters and avoid the issuance of another Official Action.

DEPOSIT ACCOUNT

The Commissioner is hereby authorized to charge any fees associated with the filing of this correspondence to Deposit Account No. **50-0426**.

Respectfully submitted,

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